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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/603,815      | 06/26/2003  | Francois Cottard     | 239098US0           | 2794             |

22850 7590 06/09/2005

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ALEXANDRIA, VA 22314

|          |
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| EXAMINER |
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ELHILO, EISA B

|          |              |
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| ART UNIT | PAPER NUMBER |
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1751

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/603,815

Applicant(s)

COTTARD ET AL.

Examiner

Eisa B. Elhilo

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1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/9/4, 3/18/4 &amp; 5/18/5</u> | 6) <input type="checkbox"/> Other: _____  |

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Claims 1-30 are pending in this application.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8-11, 13-22, 25-27 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Casperson et al. (US 5,376,146).

Casperson et al. (US' 146) teaches a composition comprising oxidation dyes (see col. 5, line 33), alkalizing agent of sodium silicate and alkanolamine of ethanolamine as claimed in claims 1-4 (see col. 5, lines 12-29), wherein the alkanolamine is presented in the amount of 5% which is within the claimed range as claimed in claims 8-10 (see col. 11, Examples 1-40, composition No. 5), wherein the pH of the composition is in the range of 7 to 11 which falls within the claimed range as claimed in claim 11 (see col. 5, line 10), wherein the oxidation dye is selected from oxidation bases of paraphenylenediamines as claimed in claims 13-15 (see col. 5, lines 40-41) and couplers of 1,3-phenylenediamines (meta-phenylenediamines) as claimed in claims 16 and 20 (see col. 7, lines 28-29), wherein the oxidation bases and couplers are employed in the amounts of .0005% to about 5% which are fall within the claimed ranges as claimed in claims 19 and 21 (see col. col. 8, lines 30-34), wherein the addition acid salts are sulfates and hydrochlorides as claimed in claims 17-18 (see col. 6, lines 25-26), wherein the composition comprises organic solvents as claimed in claim 22 (see col. 9, line 25), wherein the

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composition further comprises hydrogen peroxide as claimed in claims 25-26 (see col. 9, lines 52-53). Casperson et al. Also teaches a method for dyeing hair comprising applying to the hair the dyeing composition as described above and wherein the reference's method is identical to the claimed method as claimed in claims 27 and 30 (see col. 10, lines 50-66). Casperson et al. teaches all the limitations of the instant claims. Hence, Casperson et al. anticipates the claims.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 12, 23 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casperson et al. (US 5,376,146).

Casperson et al. (US' 146) teaches a composition comprising oxidation dyes (see col. 5, line 33), alkalizing agents of sodium silicate and alkanolamine of ethanolamine (see col. 5, lines 12-29), wherein the alkalizing agents are presented in the amounts of 0.01 to 5% (see col. 5, lines 30-31), wherein the pH of the composition is in the range of 7 to 11 which is overlapped with claimed range as claimed in claim 12 (see col. 5, line 10), wherein the composition comprises organic solvents in the amounts of 0% to 5% which is overlapped with the claimed range as claimed in claim 23 (see col. 9, line 25), wherein the composition further comprises hydrogen peroxide as claimed in claims 25-26 (see col. 9, lines 52-53). Casperson et al. (US' 146) also teaches a method for dyeing hair comprising applying to the hair the dyeing composition as

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described above and wherein the composition is remained for a period of time after which the composition is washed from the hair as claimed in claims 28-29 (see col. 10, lines 50-66).

The instant claims differ from the reference by optimizing the amount of alkalizing agent metalsilicate in the composition.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to optimize the amount of the alkalizing agent of the metalsilicate in the composition so as to get the maximum effective amount because Casperson et al. (US' 146) clearly teaches that a mixture of alkalizing agents includes sodium silicate can be used in the dyeing composition and wherein these alkalizing agents are presented in the amount of 0.1 to 5% (see col. 5, lines 12-32), and, thus, the person of ordinary skill in the art would expect such composition to have the same properties as those claimed, absent unexpected results.

3        Claims 1, 3-4, 11, 13-16, 19-22 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dias et al. (US 6,004,355).

Dias et al. (US' 355) teaches a hair dyeing composition comprising oxidation dyes of para-phenylenediamines in the amount of 0.24% which is within the claimed range as claimed in claims 1, 13-15 and 19 (see col. 32, Example I), buffering (alkalizing) agent of monoethanolamine as claimed in claims 3-4 (see col.22, line 27), magnesium silicate (see col. 31, lines 3-4), couplers of m-aminophenols in the amount of 0.06% which within the claimed range as claimed in claims 16, 20-21 (see col. 32, Example I), organic solvents as claimed in claim 22 (see col. 25, lines 10-21), cationic polymers in the amount of 0.05 to 2% and nonionic surfactants in the amount of 1.5 wherein the amounts of the polymers and nonionic surfactants are within the claimed ranges as claimed in claim 24 (see col.30, lines 55-56, col. 31, line 22 and

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col. 32, Example I), wherein the composition also comprises oxidizing agent of hydrogen peroxide as claimed in claims 25-26 (see col. 22, lines 56-58), wherein the composition has a pH in the range of 7 to 10.5 which is within the claimed range as claimed in claim 11 (see col. 21, line 67). Dias et al. Teaches all the limitations of the instant claims. Hence, Dias et al. (US' 355) anticipates the claims.

### *Conclusion*

The references listed on from 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

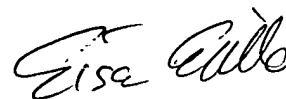
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Eisa Elhilo". The signature is written in a cursive, flowing style.

Eisa Elhilo  
Patent Examiner  
Art Unit 1751

June 4, 2005